

MINUTES

OF THE

NATURAL RESOURCE COMMISSION

TELEPHONE MEETING

DECEMBER 22, 2005

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

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MEETING MINUTES

CALL TO ORDER

The telephone meeting of the Natural Resource Commission was called to order by Chairperson Marcantonio at 8:30 a.m. on Thursday, December 22, 2005 at the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

Janice Marcantonio
Carol Kramer
Liz Garst
Kim Francisco
Lennis Moore

MEMBERS ABSENT

Randy Duncan
Joan Schneider

APPROVE AGENDA

Motion was made by Commissioner Kramer to approve the December 22, 2005 NRC agenda. Seconded by Commissioner Moore. Motion carried unanimously.

AGENDA APPROVED

FINAL RULE—CHAPTER 17, BARGE FLEETING REGULATIONS

Linda Hanson, Administrator, Management Services Division, presented the following item.

The commission is requested to amend Chapter 17, “Barge Fleeting Regulations,” Iowa Administrative Code. These rules clarify application, appeal procedures, fleeting operation standards, restrictions and prohibitions on locating fleeting areas, and provide necessary definitions. They substantially revise procedures for determining lease fees, increase the fees and provide for future fee adjustments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2005, as ARC 4242 B. No written comments regarding the rules were received. At the public hearing on June 30, 2005 no comments regarding the rules were received.

The final adopted amendments are unchanged from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 461A.4, 461A.11, 461A.18, 461A.25 and 461A.32.

NATURAL RESOURCE COMMISSION [571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 17, "Barge Fleeting Regulations," Iowa Administrative Code.

These amendments clarify application, appeal procedures, barge fleeting operation standards, restrictions and prohibitions on locating fleeting areas, and provide necessary definitions. Procedures for determining lease fees are substantially revised, new lease fees are established, and future fee adjustment is provided for.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2005, as ARC 4242 B. No written comments regarding the rules were received. At the public hearing on June 30, 2005 no comments regarding the rules were received.

The final adopted amendments are unchanged from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 461A.4, 461A.11, 461A.18, 461A.25 and 461A.32.

These amendments shall become effective February 22, 2006.

The following amendments are adopted.

ITEM 1. Amend Chapter 571-17 (461A) by striking the chapter and substituting in lieu thereof the following:

CHAPTER 17
BARGE FLEETING REGULATIONS

571—17.1(461A) Purpose. The department promulgates these rules regulating the practice of barge fleeting in order to protect public and private rights and interest in public waters of the state of Iowa under the jurisdiction of the commission; to protect public health, safety and welfare; and to protect fish and wildlife habitat.

571—17.2(461A) Policy. It is the policy of the natural resource commission to recommend that the executive council of Iowa lease strategically located barge fleeting facilities on the public waters of the state of Iowa under the jurisdiction of the commission in a manner consistent with the state's role as trustee of its waters.

571—17.3(461A) Applicability. This rule is applicable to all public waters under the jurisdiction of the commission except that portion of the Mississippi River conveyed to certain cities by chapter 249, Acts of the Fifty-first General Assembly; chapter 299, Acts of the Fifty-ninth General Assembly or Special Charters enacted by the legislature in 1856 and 1857. It regulates the use of those waters for barge fleeting, including the installation of structures, physical site modification such as dredging, and operation of fleeting equipment and maneuvering of barges within the fleet.

571—17.4(461A) Definitions.

“Commission” means the natural resource commission.

“Deadman” means an anchor buried in the upland adjacent to a fleeting area.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources.

“Dolphins” means a closely grouped cluster of piles driven into the bed of a waterway and tied together so the group acts as a unit to withstand lateral forces from vessels or other floating objects.

“Fleeting area” means an area within defined boundaries used to provide barge mooring service and to accommodate ancillary harbor towing under care of a fleet operator. The term does not include momentary anchoring or tying off of tows in transit and under care of the line haul towboat.

“Lease” means a lease as authorized under Iowa Code section 461A.25 for the purpose of authorizing a barge fleeting area.

“Mooring barge” means a barge held in place by anchors or spuds and used to moor other barges during their stay in the fleeting area.

“Mooring cell” means a sheet pile structure, usually filled with earth, stone or concrete and used to hold barges or other vessels in place.

"Operator" means any person who operates a barge fleeting area.

“Person” means any individual, firm, partnership, joint venture, joint stock company, association, public or private corporation, municipality, cooperative, estate, trust, receiver, executor, administrator, fiduciary and any representative appointed by order of any court or otherwise acting on behalf of others.

“Riparian rights” means the legal rights that assure the owner of land abutting a stream or lake access to or use of the water.

571—17.5(461A) Barge fleeting leases. No person shall assert any exclusive privilege to conduct barge fleeting and mooring service for hire, or not for hire, and prevent or obstruct any lawful use of navigable waters under the jurisdiction of the commission except within a fleeting area leased by the executive council of Iowa or at a loading or offloading facility necessary to carry on commerce, provided the facility is constructed in compliance with Iowa Department of Transportation, U.S. Army Corps of Engineers, and all other applicable permits and regulations.

571—17.6(461A) Restricted areas. Leases shall not be issued for a fleeting area in the following locations unless the department determines there is a compelling reason for fleeting in such an area.

17.6(1) A site subject to unusual hazards including but not limited to high wind, strong current, violent ice movement, and hydraulic surges during the time fleeting operations are proposed to be carried out.

17.6(2) A site receiving high use for recreation, sport fishing, and commercial fishing unless the fleeting area can be placed or structured to be compatible with such uses.

17.6(3) A site immediately adjacent to industries or other facilities, which together with fleeting operations present a substantial risk of fire, explosion, water pollution, or other serious safety hazards.

17.6(4) A site where fleeting area activities would restrict or interfere with or have a substantial adverse effect on the use and enjoyment of an area owned by federal, state, or local government, including but not limited to public parks, game refuges, forests, or recreation areas

used for access to docks, slips, harbors, marinas, boat launching ramps or the unique biological or physical features of the river valley itself.

17.6(5) A site immediately adjacent to or over a dam, sill, lock, breakwater, revetment, navigation aid, or wing dam.

17.6(6) A site within established navigation channels for commercial or recreational vessels.

17.6(7) A site within the approach area for a lock portion of a dam structure.

17.6(8) A site adjacent to bridges or vessel approach areas to bridges.

571—17.7(461A) Prohibited areas. Leases shall not be issued for a fleeting area in the following locations:

17.7(1) A site that will have a substantial adverse affect on fish or wildlife (mussels, fish spawning, waterfowl, or furbearer) habitat due to dredging, propeller wash or other activity related to fleeting.

17.7(2) A site that would have an adverse impact on documented threatened and endangered species.

17.7(3) A site adjacent to national monuments or registered landmarks.

571—17.8(461A) Riparian rights. No fleeting area shall be leased in any location that would interfere with the rights and privileges the riparian property owner except with written permission of the riparian owner or lack of response to the notice provided for in 17.10(2) f.

571—17.9(461A) Standards. The following standards apply to operation of fleeting areas:

17.9(1) A fleeting lease shall be construed to do no more than give the operator the right to designate and improve an area to be utilized for fleeting. The lease creates no interest, personal or real, in the real estate below the ordinary high water line except as provided in the lease.

17.9(2) Improvements in fleeting areas shall be limited to items such as construction of dolphins, mooring cells, deadman anchors, mooring barge anchors, and other similar methods of assuring retention of barges if approved by the department. Improvements shall be constructed in a manner consistent with engineering standards of the U.S. Army Corps of Engineers.

17.9(3) Fleeting activities within leased fleeting areas shall be limited to barge mooring service, ancillary harbor towing and minor barge repair or servicing. No washing or cleaning of barges is leased, unless conducted in compliance with the requirements of Iowa Code chapter 455B; the washing activities will not have a substantial adverse affect on fish or wildlife (mussels, fish spawning, waterfowl, or furbearer) habitat; and the department specifically approves the cleaning activity.

17.9(4) Barges shall not be moored to trees or other natural features of an area except with the approval of the riparian property owner or during an emergency.

17.9(5) Barge fleeting shall be conducted in a manner that minimizes bank erosion attributable to the fleeting operation.

17.9(6) Leased fleeting areas may be used for navigation and recreational pursuits such as boating and fishing only to the extent that such use does not interfere with fleeting activities. Other waterway users shall not obstruct barge fleeting activities within leased fleeting areas.

17.9(7) The right of entry of barges into a fleeting area may be refused by:

a. The operator.

b. The department, after conferring with the operator, when there is an imminent hazard to the public interest, or to public health, safety or welfare.

17.9(8) The operator shall, at all times, be responsible for the safety and security of the barges in the fleeting area and shall take reasonable precautions to eliminate hazards to boaters or other persons in the fleeting area.

17.9(9) Lights or other warning devices as required by state and federal navigation regulations shall mark moored or fleeted barges.

17.9(10) The operator shall notify the department of the current name, address, and day and night telephone numbers of the individual directly responsible for supervising the fleeting area who is to be notified in case of emergency.

17.9(11) A lease issued under this chapter may not be exercised until all other necessary permits or approvals have been issued by local, state or federal agencies having jurisdiction over the lease area.

17.9(12) All structures and devices shall be removed by the operator upon the expiration of a lease unless the department determines some structures and devices must remain in place to correct existing problems or to prevent future problems that could cause environmental damage.

571—17.10(461A) Application. An applicant for a lease, or a renewal of a lease, shall submit an application to the department on forms provided by the department.

17.10(1) Applicant. An applicant for a lease must be a person and an operator as defined in these rules.

17.10(2) Content of application. The following shall be included in the application:

a. A fee of \$500.00 for the cost of review of the lease application for a previously unleased site. Prior to issuance of a lease, the applicant shall pay the department an additional \$500.00 fee for administration of the lease.

b. A fee of \$1,000.00 for the cost of review and issuance and administration of a renewal lease.

c. Applicant name, address, telephone number, state of incorporation (if applicable) and whether a new lease or renewal.

d. A map extending at least one half mile upstream and downstream from the proposed fleeting area showing the location of the proposed fleeting area by section, township, range, county and river mile and by major identifiable features in the immediate area such as locks and dams, incorporated areas, roads, bridges, and county lines. The map shall indicate designated fish and wildlife areas and refuges; existing recreational areas; historical, archeological and cultural sites, if known; residential housing locations; and existing adjacent water or shore land uses which, together with fleeting operations, would present an unusual risk of fire, explosion, collision, contamination or other serious safety hazards. The map shall also show the following navigation-related features:

- (1) Docks.
- (2) Landings.
- (3) Harbors.
- (4) Marinas.
- (5) Dikes.
- (6) Revetments.
- (7) Islands.
- (8) Navigation or warning lights.

- (9) Wing dams.
- (10) Submerged cable and pipeline crossings.
- (11) Overhead power and utility lines.

e. Name, address, and telephone number of each riparian property owner adjacent to the fleeting area.

f. Proof that the applicant has riparian rights on the navigable waterway adjacent to the entire area of the proposed fleeting area. Proof may include fee simple title, a lease of riparian or mooring rights from the riparian owner, written permission from the riparian owner. In lieu of written permission, the applicant shall certify that he has notified the riparian owners of the proposed establishment of a fleeting area. Notification to riparian property owners shall be by certified mail using forms furnished by the department. The riparian property owner shall respond to the department in writing within 30 days of receipt of notice if the property owner objects to the issuance of a lease. The basis for objection shall be stated in the response. The department shall consider the effects of lease issuance on the riparian property owner's rights. The department shall be notified by the operator of any action to terminate a lease or written permission.

g. A drawing of the proposed fleeting area which contains the following: plan view and cross-sections to show existing pertinent topographic and hydrographic features; referenced government datum plane; scale, both vertical and horizontal (not smaller than 1" = 400' horizontal); north arrow; river current directions; property lines and adjacent property owners by name; proposed features including dolphins, anchors, deadmen, mooring barges, mooring cells and buoys, and other devices; mooring facility size and configuration; and maximum number and size of barges to be moored, and routes used by any tow entering or leaving the fleeting area.

h. Documentation of the need for the size, capacity, and location of the fleeting area for which a lease is requested.

i. A list of alternate sites considered and a statement of the reasons the requested site is preferred.

j. Signature of applicant or authorized agent.

571—17.11(461A) Application review and approval.

17.11(1) Review of application. Upon receipt of an application that complies with the requirements of 17.10(461A), the department will review the application to determine whether the application complies with applicable criteria in these rules. In order to determine such compliance, the applicant may be required, at the applicant's expense, to provide the department with anchor design criteria, underwater surveys and dives necessary to determine compliance.

17.11(2) Notice of application. Upon determination that an application that complies with applicable criteria in these rules, the department staff shall give notice of receipt of the application as follows:

a. Publication of notice. The department shall publish one notice in a newspaper as defined in Iowa Code section 618.3 published in the county where the proposed fleeting area is located or in an adjacent county. The newspaper shall be of general circulation in the vicinity of the proposed fleeting site. The notice shall briefly describe the location and nature of the proposed fleeting area, identify the department rules which are pertinent to the application, state whether the application is a new or renewal, and provide that a hearing will be scheduled if the department director determines that there is a material issue concerning whether the application complies with applicable criteria in these rules. The notice shall allow interested persons 30 days

from the date of publication to submit comments or a request for hearing, and shall state that a request for hearing must be supported by documentation of potential adverse effects of the proposed fleeting facility on an affected or aggrieved person.

b. Notification of governmental bodies and interested persons. The notice as prepared for publication shall also be sent by first class ordinary mail or an equivalent method of service to the directors of the Iowa department of transportation, Iowa department of economic development, the Iowa secretary of agriculture, the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Coast Guard, natural resources and transportation management agencies of the adjacent state, and to any person who has requested in writing that the person's name be placed on a mailing list for notification of barge fleeting facility applications adjacent to a designated county or counties. The mailing list will be updated at the beginning of every other calendar year.

17.11(3) Lease approval. If the director determines that there is not a material issue concerning whether the application complies with applicable criteria in these rules, the lease will be presented to the commission to obtain the commission's recommendation of approval to the executive council of Iowa. Final approval of the lease shall be by the executive council.

571—17.12(461A) Lease Fee. The annual lease fee in dollars to be paid by the operator to the department shall be based on the dimensions of the area to be used as a fleeting area. The fee shall be determined as follows:

a. Leases issued prior to January 1, 2006, \$3.18 per each one hundred square feet or fraction thereof per year included under the lease.

b. Effective under leases issued January 1, 2007 and thereafter, each following January 1 the fee per one hundred square feet shall be adjusted on a cumulative basis, by the percentage of the Consumer Price Index for the Midwest Urban Region, published by the U.S. Department of Labor, Bureau of Labor Statistics, for the previous one year period.

571—17.13(461A) Renewals. The operator shall request renewal of the lease not more than nine or less than six months prior to its expiration. The application fee as provided in 17.10(2) b must accompany the request. A lease shall remain in force during the processing of an application for renewal, including any appeals process, provided that the application for renewal was made not less than six months before expiration of the lease. Failure to request renewal shall terminate the operator's rights to the fleeting area.

571—17.14(461A) Disputes concerning leases. Contested case procedures are not applicable to disputes concerning leases under this chapter, except as set forth in 17.15(461A) and 17.16(461A). A commission decision whether or not to recommend a lease or a particular condition of a lease is final agency action, subject to the right of an applicant or other affected person to file with the director a written request for reconsideration by the commission. The director must receive the request for reconsideration within 30 days after the commission's decision on a proposed lease. A commission decision to recommend a lease will be forwarded to the executive council of Iowa for approval after 30 days following the commission's decision unless the director has been notified of a written request for reconsideration or the filing of a petition for judicial review of the commission's recommendation.

571—17.15(461A) Lease revocation. A lease may be revoked upon determination that operation of the facility is in violation of a condition of the lease. Revocation proceedings shall be in compliance with Iowa Code chapter 17A and 571—Chapter 7.

571—17.16(461A) Nonuse. Failure by an operator to substantially exercise the rights granted in a lease issued under this chapter within a period of 2 years from the issuance of the lease shall render the lease null and void unless extended by the department. Failure by an operator to substantially exercise the rights granted in a lease issued under this chapter for any period of two (2) consecutive years shall create a rebuttable presumption that the operator intends to abandon and forfeit the lease and shall be cause for a review of the lease by the department. The operator may request a contested case proceeding in accordance with Iowa Code chapter 17A and 571—Chapter 7.

These amendments are intended to implement Iowa Code sections 461A.4, 461A.18, 461A.25, and 462A.32.

Date

Jeffrey R. Vonk, Director

Linda Hanson reviewed that Chapters 16 and 18 were withdrawn after going to the Legislative Rules Review Committee because of some questions and controversy. However, Chapter 17 was approved. She introduced Greg Jones, Engineering and Realty Services Bureau to talk about the barge fleeing regulations. Hanson noted that staff worked with the barge fleeing industry parties as the rules were developed.

Motion was made by Commissioner Kramer to approve Final Rule—Chapter 17, Barge Fleeing Regulations. Seconded by Commissioner Francisco.

Greg Jones reviewed the amendments to the rule. He explained that the lease fees were increased about 20% and they provide for future fee adjustment based on consumer price index. He said the rules were developed in conjunction with the barge fleeing industry and no written comments and no hearing comments were received on the rule. Mr. Jones said this is an improvement to the rules and that the barge fleeing industry finds the rules acceptable

Motion to approve the final rule carried unanimously.

FINAL RULE APPROVED

2006 DEPARTMENT OF NATURAL RESOURCES PROPOSED LEGISLATION

Environmental Protection Initiatives:

1. Amend 455B.173 to direct fees collected from wastewater disposal facilities to the Department of Natural Resources for administering the water pollution control program.

The Department proposes to amend 455B.173 to specify that the fees collected from wastewater disposal facilities will be submitted to the Department. The amount of fees to be assessed will be established through rulemaking by the Environmental Protection Commission and will be based on the cost of administering the water pollution control program.

2. Amend 455B.172 to require inspections of on-site wastewater treatment systems and private water wells at time of sale or transfer of the property.

The Department proposes to amend 455B.172 to give the DNR specific authority to establish programs at the county level to require inspection of all private sewer systems and private water wells and the testing and analysis of drinking water wells at the time of sale or transfer of ownership of a property.

3. Amend 455B.172 to require the submission of sewage disposal plans for approval by the local Board of Health before any subdivision plats are approved.

The Department proposes to amend 455B.172 to require sewage disposal plans at the time of planning subdivision development and that the plans be approved by the county Board of Health. It is advantageous to the subdivision developer and future lot owners if decisions on how sewage is going to be treated are made prior to the final determination of lot dimensions.

4. Technical/Corrective Code Changes (3)

A. The Department proposes to rescind 455B.412(1), 455B.464 and 455B.484(11) which outline several requirements in the Code related to the development of plans and the management of the RCRA (Resource Conservation and Recovery Act) Subtitle C (hazardous waste) program. This program, while once administered by the DNR, has been managed by the US EPA since the mid 1980s. Plan development and management of the hazardous waste program is a federal government responsibility and no longer the Department's.

B. The Department proposes to rescind 473.40 as it relates to the development of energy rating systems for residential, public, commercial and industrial buildings and sets forth dates for completion.

The Department received federal funding and developed the Home Energy Rating System (HERS) for residential buildings in 1999. Builders constructing new homes in Iowa today may use the ENERGY STAR Builders Option Package (BOP) rating system. The Department had convened a technical advisory committee for the development of an energy efficiency system for commercial buildings. The committee concluded that it would be very difficult, and possibly not practicable, to develop a general energy efficiency rating for these facilities. Recently Iowa became a member of the US Green Buildings Council, a national organization that rates and certifies highly energy efficient and sustainable Leadership in Energy and Environmental Design

(LEED) buildings. The ratings are voluntary at this time; however, more building professionals and designers across Iowa are constructing buildings to LEED standards. The current code is outdated and obsolete.

C. The Department proposes to rescind section 455B, Division IV, Solid Waste Disposal, Part 2 Radioactive Waste. The Iowa Department of Health (Chapter 136C) and the Iowa Department of Transportation have the authority over the use and transportation of radioactive material/waste in Iowa. This authority is granted by the Iowa Code and by an agreement with the federal government. The Department delegates its authority to the Department of Public Health through a 28E agreement.

Natural Resources Initiatives:

5. Amend 483A to increase the number of nonresident hunting licenses.

The Department proposes to amend 483A to increase the number of nonresidents allowed each year to hunt any sex deer and wild turkey. This amendment makes two changes concerning the number of nonresident hunting licenses.

1) Allow for the issuance of 6,000 additional nonresident any sex deer licenses, bringing the total available any sex nonresident licenses to 12,000.

2) Allow for the issuance of 1,000 additional nonresident wild turkey licenses, bringing the total available licenses to 3,300.

Each year the DNR refunds 6,000-plus nonresident any sex deer license application fees, totaling over \$2.5 million. In return, the Department will commit additional funds towards increased public hunting access opportunities.

6. Amend 481A.130 to strengthen the penalties for illegally taking bobcats and illegally taking sport fish.

The Department proposes to amend 481A.130 to better protect certain fish and wildlife species by making the following changes:

- Establish a fine for illegally taking bobcat at \$200.
- Raise the fine on certain sport fish. Damages of taking fish with an established daily limit of 25 or less is \$50 with these exceptions; paddlefish set at \$500; muskellunge \$500 for 50" or less plus \$100 for each inch over 50".
- Establish a fine of \$50 for illegally taking largemouth and smallmouth bass; walleye; northern pike; channel and flathead catfish; rainbow, brown and brook trout; plus \$50 for each inch over designated size.

The bobcat is currently under the definition of common furbearing game, and the fine (\$50) is not appropriate for this particular species. Values for illegally taken fish are well below those of most of the neighboring states and do not cover the cost of producing sport fish. (Note: this does not include fish kills from pollutants.)

7. Amend 482 improve regulations for the commercial harvest of fish, mussels and turtle.

The Department proposes to amend 482 to develop better resource management tools and provide certain species better protection by making the following changes:

- Establish separate licenses for commercial fish buyers and commercial turtle buyers, and require records of their purchases from the commercial harvesters.
- Eliminate the designated operator license and require each commercial fisher who operates a crew to purchase an owner's license.
- Establish a commercial fish helper's and a commercial turtle helper's license, in addition to the current commercial mussel harvest helper, and set the cost at \$50 for each license.
- Prohibit nonresidents and aliens from harvesting turtles for either sport or commercial purposes from all inland waters of the state.
- Align residency requirements for commercial fish and turtle harvest with residency requirements for fishing and hunting licenses.
- Increase the boundary water sport trotline license to \$20.00 for residents and \$40.00 for nonresidents (not changed since 1987). The boundary water sport trotline license permits the licensee to use a maximum of four trotlines with up to 200 hooks total on the Mississippi, Missouri, and Big Sioux River.

These changes help maintain accurate harvest records for resource management, bring regulations in line with other states, clean up law enforcement issues, and bring fees in line with inflation and other states.

8. Amend 462A.12 to require personal flotation devices on boats for children under 13.

The Department proposes to amend 462A.12 to help improve the safety of children while boating. This requires children to wear a personal flotation device on a moving vessel unless the child is in a fully enclosed area or on a commercial excursion boat. Iowa is one of only four states that do not have such a requirement for children. This change is critical to improve child safety, and brings Iowa in line with the rest of the states and federal regulations.

9. Amend 463C to expand the bonding authority for Honey Creek Destination Park.

The Department proposes to amend 463C to enable DNR and partners to implement the planned destination park. This amendment raises the bonding authority from a cap of \$28 million to \$35 million. When the original legislative language was drafted, the total cost of interest and bond servicing was not included in the bonding authority.

10. Amend 321I and 805.8B to establish an electronic registration system for resident all-terrain vehicle registration and improve rider safety.

The Department proposes to amend 321I to make it easier for residents to register all-terrain vehicles for use on the state designated riding areas and improve rider safety by making the following changes:

- Establish an electronic registration system for residents, similar to the current nonresident registration system, and improve the process for the registration of used all-terrain vehicles by allowing either the seller or purchaser of an all-terrain vehicle to bring the registration to current status.

- Require adult supervision on state designated riding areas for riders less than sixteen years of age.
- Provide clarification that all-terrain vehicle operation by adjacent land owners on public right-of-way areas requires operators meet the safety and registration requirements of the chapter.
- Establish repeat offender record keeping system and administrative process, similar to the system used to track repeat violators of fish and game statutes.
- Define all-terrain utility vehicles (Gators, Mules, Rhinos) and provide clarification on their use, including user permits for use on designated public property.
- Provide for all-terrain vehicle use to mow or maintain a designated trail system as defined by this chapter.

Strengthen penalties for illegal all-terrain vehicle operation from \$20 to \$50 for safety equipment requirements, \$100 plus cost for illegal operation.

Diane Ford-Shivvers remarked that at the last meeting she reviewed natural resources legislation and also e-mailed the entire DNR proposed legislation. She offered to answer any questions and discuss any other natural resources related legislation that might come up.

Commissioner Garst inquired as to whether the commission could take action regarding legislation at this meeting since the item is listed as an informational item. She also asked what action the EPC had taken regarding legislation and questioned whether the commission should support only the natural resources initiatives or the entire slate of the DNR, including the EPC initiatives.

Commissioner Francisco commented that since it is not a regulatory action, the commission should be able to adopt a resolution supporting the legislation. He added that he would be more comfortable with supporting only the natural resource initiatives.

Commissioner Moore and Commissioner Kramer agreed that they would feel more comfortable supporting the natural resources initiatives.

Director Vonk stated that at the last EPC meeting, that commission discussed meeting as a commission and inviting the NRC commissioners for dinner prior to the legislative breakfast to go through the entire list of legislative initiatives. Director Vonk further explained that the EPC has adopted a strategy to spend a couple of hours every month talking and discussing issues, policy and other kinds of things. He said they plan to do that in a formal way after the breakfast and the NRC will be invited to attend.

Motion was made by Commissioner Francisco to pass a resolution supporting the Natural Resources legislative initiatives 5,6,7,8,9 and 10.

Individual initiatives were discussed. Commissioner Garst asked why legislation to increase the number of non resident hunting licenses does not get passed through the legislature.

Discussion ensued regarding the opposition to increases in nonresident licenses by Iowa sportsmen. Director Vonk indicated one issue is the expansion of land being bought and posted.

He said this conflict will continue to grow because, as a private land state, we are slow in recognizing the economic worth of the wildlife resource and landowners are finding they can realize a economic return by selling hunting rights or leasing them. Director Vonk pointed out that our sportsmen do not want to have to pay to hunt.

Commissioner Garst related that she is interested in expanding the hunting license number because it is an economic development initiative and is a resource that we are depriving ourselves of.

Diane Ford-Shivvers reported that she is drafting a letter to legislators to talk about the economic impact to surrounding communities in terms of adding 6,000 hunters.

Discussion continued regarding allies in support of this legislation. Director Vonk talked about the organizations that have expressed opposition to the bill and pointed out that organized proponents such as bed and breakfasts or the chamber of commerces in small towns have not weighed in on this issue. He added that the state is losing a lot of revenue that should be put toward finding a solution to the issue of access.

Commissioner Moore questioned if the issuance of an extra 6,000 deer licenses and 1,000 turkey licenses is in line with the management plans for those animals.

Director Vonk responded that whether 6,000 or 12,000 either sex tags are sold to non residents, there will be no impact on the department's management. He noted that a harvest of 200,000 animals is likely this year, and that is a very small number for use as a management tool. He emphasized that the biggest issue facing Iowa sportsmen is access and we need to stress the issue of access for Iowa hunters as a solution. Director Vonk went on to say that the department has no money to work on access programs on private lands or even expanded acquisition at this time. He added that the difficulty in creating an access program is that we do not want to create a situation where a demand is created that would shut off all the rest of the private land because of paying somebody for access. He said we must figure out a way that we do not create a worse situation by providing incentives to a very limited number of landowners.

Discussion continued regarding various scenarios of translating money from additional licenses into a program, such as buying more public land or into an incentive access program for private lands to use as a selling point in lobbying the legislature. Director Vonk said that right now we do not have money to do anything, but we should be thinking beyond what we would buy and start looking at other kinds of incentives that would help Iowa landowners realize the benefit to opening their lands up. He said another big issue is we have to start dealing with the liability of hunting accidents on lands.

Commissioner Francisco asked about the proposed legislation to strengthen the penalties for illegally taking sport fish and the note that the fine increase does not include fish kills.

Marion Conover reviewed that the fish restitution language in this proposed legislation applies to fish that are poached by an angler or unlicensed angler and is not related to the pollution cost of fish kills.

Director Vonk argued that the principle applied a couple of years ago because of public concern was that folks who caused a pollution type fish kill were getting away with very low penalties for the damage they caused to the environment. He said the case was made that those penalties should be consistent whether the fish was killed through a pollution event or through a poaching event.

Discussion continued regarding wording for Code Chapter 481A.130 versus Chapter 113 and how that language applies to pollution caused events as well as sport fish kill events. Director Vonk commented that it appears that the proposed change in one chapter will create the situation where there will be a different penalty based on this Code change.

Diane Ford-Shivvers noted that changes can be made before this legislation is sent to the bill drafters. She said staff will make sure wording is correct before filing.

Commissioner Garst asked why legislation requiring personal flotation devices on boats for children under 13 does not get passed and who is against that.

Diane Ford-Shivvers commented that some legislators feel it is the parent's responsibility to keep their children safe. She said another organization was concerned that children who go duck hunting would be required to wear a PFD over their cold weather clothing. Ford-Shivvers noted that a campaign is being developed in conjunction with the National Transportation Safety Board to talk to legislative leadership during this year's session. She also noted that Iowa is only one of four states that do not have coverage for children.

Regarding legislation to expand the bonding authority for Honey Creek Destination Park, Diane Ford-Shivvers noted that the Governor is taking this up in his packet of initiatives, which raises that legislation to a higher level. It will therefore, be removed from our list, but still can be supported by the commission.

Ford-Shivvers added that other related natural resource pieces of legislation may come up that the commission may want to support include:

- Trespass legislation that defines trespass and lays out some enforceable code.
- Legislation to designate cougar as a furbearing animal with a closed season and perhaps the black bear.
- Boating safety issues, such as safety procedures for when someone is in the water around motor boats, as well as boating speed close to shore.
- Sustainable funding based on the Missouri model of a percentage of sales tax money for conservation purposes make a motion on this at this point.

<i>Motion to approve the DNR legislative initiatives died for a lack of a second</i>
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GENERAL DISCUSSION

The Legislative Breakfast is planned for January 18 at the Capitol from 7:30 – 9:00 a.m. An evening dinner and legislative discussion is planned for the evening before the breakfast.

NEXT MEETING DATES

The next meeting will be a short meeting held January 18, 2006 immediately following the Legislative Breakfast.

ADJOURNMENT

The December 22, 2005 telephone meeting adjourned at 9:35 a.m.

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